

# CENTER FOR REGULATORY REASONABLENESS

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February 12, 2016

## VIA FOIA ONLINE

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460

**RE: Freedom of Information Act Request**  
**EPA Records Advising or Giving Notice to the Office of Information**

Dear National Freedom of Information Officer:

The undersigned, on behalf of the Center for Regulatory Reasonableness (“Center”), herewith files a request for Environmental Protection Agency (“EPA” or “Agency”) records under the Federal Freedom of Information Act (“FOIA”), 5 U.S.C. §§ 552, *et seq.*, as implemented by EPA, at 40 C.F.R. Part 2. Please note that this request incorporates the following instruction of the U.S. Department of Justice: “Since 1996 the FOIA has defined the term “record” as including “any information that would be an agency record subject to the requirements of [the FOIA] when maintained by an agency in any format, including an electronic format.” *Department of Justice, Office of Information Policy (OIP) Guidance*, at 1.<sup>1</sup> The OIP instruction is intended to be used for the Center’s request.

### ***Center’s FOIA Request***

This FOIA request by the Center asks for the advice or notice provided to your office, as referenced in the Agency’s FOIA correspondence dated February 11, 2016, and addressed to “Mr. Adam Carlesco, Hall & Associates.” (“Reconsideration Letter.”) (Copy, as Att. 1.)<sup>2</sup> Specifically, in the EPA February 11<sup>th</sup> letter, Ms. Julia E. Bunnell, Acting Agency FOIA Coordinator, states: “*Upon further review of the information provided in your submission, it has*

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<sup>1</sup> <http://www.justice.gov/oip/blog/foia-post-2008-summaries-new-decisions-july-2008>.

<sup>2</sup> Note that the present FOIA request is *that of the Center alone*, and not that of law firm, Hall & Associates.

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*been brought to our attention that the criteria for a fee waiver has not been met. You have not expressed a specific intent to disseminate the information to the general public.* (Emphasis supplied.) The Center's request seeks the information that was brought to "your attention" with respect to the Center's fee waiver request.

***Center's Request is Focused and Unambiguous***

The Center's request is discrete and limited, asking only for whatever was "brought to [your] attention," regarding the allegedly missing information in the original January 19, 2016, Center FOIA request.

***Center's Request is Timely***

This FOIA request is filed one day after receiving your Reconsideration Letter. The EPA response should also be quick in that the original FOIA was sent to you on January 19, 2016, the first, and affirmative, EPA response was sent by letter, dated, February 4, 2016, and the Reconsideration Letter is dated February 11, 2016. Please respond expeditiously.

***Center Does Not Seek Fee Waiver***

We anticipate that the relevant information is minimal. Given this, the Center does not seek a fee waiver for this request (but reserves the right to subsequently file a fee waiver request if warranted).

***Center's Request is Not an Appeal (the Filing of Which is Reserved)***

The Reconsideration Letter is styled as an appealable decision. This Center FOIA request does not represent its appeal of the EPA February 11, 2016 letter, but is a separate and distinct FOIA request. The Center reserves the right to file an appeal of the February 11<sup>th</sup> letter in the future, and within the appropriate time to do so – based on, *inter alia*, the information EPA provides in response to this request. The EPA response to the instant Center FOIA request may not be delayed or withheld pending the filing of an appeal by the Center.

Thank you for your consideration of this request.



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Christopher L. Risetto, General Counsel

Att. (1)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 11 2016

OFFICE OF  
ENVIRONMENTAL INFORMATION

Mr. Adam S. Carlesco  
Hall & Associates  
1620 I Street, N.W., 7<sup>th</sup> Floor  
Washington, D.C. 20006

**Re: Freedom of Information Act Request – EPA-HQ-2016-002924**

Dear Mr. Carlesco:

This is in regards to your request for a fee waiver in connection your Freedom of Information Act request to the U.S. Environmental Protection Agency (EPA), seeking EPA records authorizing Numeric Flow Controls in NPDES Permits.

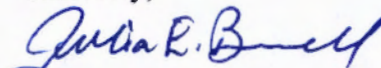
Upon further review of the information provided in your submission, it has been brought to our attention that the criteria for a fee waiver has not been met. You have not expressed a specific intent to disseminate the information to the general public. Therefore, we have reconsidered the initial determination of your fee waiver request, and are denying your request for a fee waiver. The Office of Water (OW) will respond to your request for information.

You may appeal this response to the National Freedom of Information Office, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, D.C. 20460 (U.S. Postal Service Only), or E-mail: [hq.foia@epa.gov](mailto:hq.foia@epa.gov). Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, N.W. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, D.C. 20001. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should include the request number listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal".

Should you choose to appeal this determination, please be sure to fully address all factors required by EPA's FOIA Regulations, located at 40 C.F.R. § 2.107(l), in your appeal. If you have any questions concerning this determination please contact me at (202) 566-1667.

If you have any questions concerning this determination, please contact me at (202) 564-1317.

Sincerely,

A handwritten signature in blue ink, appearing to read "Julia E. Bunnell".

Julia E. Bunnell  
Acting Agency FOIA Coordinator